

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

SB 1558 - HB 1699

April 13, 2009

SUMMARY OF BILL: Requires any person convicted of DUI on or after July 1, 2009, to have their driver's license suspended for a specified period of time dependent upon their respective number of DUI convictions. Requires the courts to order DUI offenders to operate only motor vehicles equipped with a functioning ignition interlock device (IID), following their served suspension, for a specified period of time dependent upon their respective number of DUI convictions. Requires the Department of Safety (DOS) to issue offenders restricted interlock licenses for operating vehicles with functioning ignition interlock devices. Requires the cost of any ignition interlock device to be paid for by the offender unless the person is determined to be indigent. Creates a new Class E felony for any person who violates the restriction requirements for ignition interlock devices.

ESTIMATED FISCAL IMPACT:

On March 23, 2009, a fiscal note for this bill was issued indicating the following estimated impact:

*Increase State Revenue – Net Impact –
\$2,026,700/FY09-10
\$1,326,700/FY10-11 and Subsequent Years*

*Increase State Expenditures –
\$52,500/One-Time/Department of Safety
\$2,001,600/Recurring/Alcohol and Drug Addiction Treatment
Fund
\$16,387,700/Recurring/Incarceration**

Increase Local Revenue - \$200,200/Recurring

Based on new information, the fiscal impact for this bill is estimated as follows:

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(CORRECTED)

Increase State Revenue – Net Impact –

\$3,035,600/FY09-10

\$2,335,600/FY10-11 and Subsequent Years

Increase State Expenditures –

\$52,500/One-Time/Department of Safety

**\$5,604,500/Recurring/Alcohol and Drug Addiction
Treatment Fund**

\$16,387,700/Recurring/Incarceration*

Increase Local Revenue - \$560,400/Recurring

Assumptions:

- According to DOS, the Department currently issues approximately 3,500 restricted licenses per year for DUI offenders. Under this bill, restricted licenses will no longer be issued.
- The current restricted license fee is \$67.
- The decrease of state revenue resulting from fewer restricted licenses being issued is estimated to be \$234,500 per year ($3,500 \times \$67 = \$234,500$).
- DOS indicates that approximately 14,000 reinstatements are processed each year for DUI offenders. Based on a \$100 reinstatement fee, current state revenue derived from such reinstatements is estimated to be \$1,400,000 per year ($14,000 \times \$100 = \$1,400,000$). Under current law, this revenue is not recognized until the offender has served a one-year suspension period.
- Under this bill, DOS projects that 50 percent (7,000) will be able to reinstate within 120 days, as opposed to having to wait the one-year period. As a result, approximately 50 percent of reinstatement fees (\$700,000), that would have been recognized in FY10-11 under current law, will be recognized in FY09-10 as the result of this bill. Therefore, a one-time increase to state revenue of \$700,000 for FY09-10.
- One-time computer and programming costs for DOS systems estimated to be \$52,500.
- Pursuant to Tenn. Code Ann. § 40-33-211(c)(3), costs of installing an IID may be paid for with monies from the Alcohol and Drug Addiction Treatment (ADAT) Fund whenever the court determines a DUI offender to be indigent.
- According to the Department of Mental Health and Developmental Disabilities, no monies from the ADAT Fund have ever been used to pay for the installation, maintenance, monitoring, or removal of IIDs.
- There were approximately 27,800 DUI convictions in FY07-08.

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- The number of DUI convictions remains constant in subsequent years.
- As required in the bill, the minimum IID fee is established at \$30; the maximum is established at \$60. It is assumed that DOS will establish the fee at \$45.
- Twenty percent will not pay fees due to indigence.
- The increase of state revenue derived from IID fees is estimated to be \$1,000,800 per year $[(27,800 \times 80.0\%) \times \$45 = \$1,000,800]$.
- At least 20 percent of all DUI offenders (5,560) will be determined by the courts to be indigent and the cost of installing an IID will be paid for from the ADAT Fund.
- The minimum cost of having a motor vehicle equipped with an IID is estimated to be \$1,008 (or \$84 per month). This could be either a one-time cost if the device is purchased or an annual cost if the device is leased.
- The increase of state expenditures from the ADAT Fund is estimated to be \$5,604,500 per year $(5,560 \times \$1,008 = \$5,604,480)$.
- State and local sales tax collections should increase due to sales and leasing of IID equipment.
- It is estimated that approximately 22,240 individuals will have to pay the costs for installing an IID on their motor vehicle $(27,800 - 5,560 = 22,240)$. As a result, taxable sales should increase by approximately \$22,417,900 per year $(22,240 \times \$1,008 = \$22,417,920)$.
- The current state sales tax rate is seven percent.
- The increase to state sales tax revenue is estimated to be \$1,569,300 per year $(\$22,417,900 \times 7.0\% = \$1,569,253)$.
- The average local option sales tax rate is estimated to be 2.5 percent.
- The increase to local government revenue attributable to sales tax is estimated to be \$560,400 per year $(\$22,417,900 \times 2.5\% = \$560,447)$.
- The Department of Correction (DOC) estimates one percent (278) would operate a vehicle without the IID and would receive a Class E felony.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. According to the Department, the average post-conviction time served for a Class E felony is 1.63 years. The cost per offender at 1.63 years is \$35,548.11 $(\$59.80 \times 594.45 \text{ days})$.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in 29 additional offenders. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 307 offenders. The additional operating cost for 307 offenders is \$10,913,269.77 $(\$35,548.11 \times 307)$.
- DOC estimates one-half of one percent (139) would tamper or alter the device and would receive a Class E felony as a result. Population growth will result in 15 additional offenders. The maximum cost in the tenth

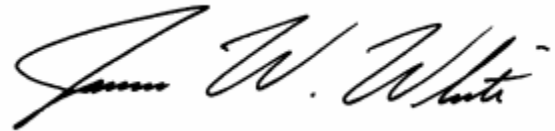
year is based on 154 offenders. The additional operating cost for 154 offenders is \$5,474,408.94 (\$35,548.11 x 154).

- Any impact on caseloads in the state trial courts can be accommodated within existing resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/rnc